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Decision No. 77652

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
BIG PINE TRUCKING COMPANY, INC., a  
corporation, for authority to establish  
reduced rates for certain commodities  
from Laws, Keller and Olancho to points  
within the Los Angeles area, pursuant  
to Section 452 of the Public Utilities  
Code.

) Application No. 51710  
) (Filed February 17, 1970;  
) Amended July 28, 1970)

O P I N I O N

Big Pine Trucking Company, Inc. (Big Pine), a corporation, operates as a highway common carrier of general commodities between the Los Angeles area and Bishop, Lone Pine, Independence, Big Pine, and points within five miles thereof.

The application states that Big Pine now maintains in Western Motor Tariff Bureau Tariff No. 111, Cal. P.U.C. No. 15, rates which are less than the established minimum rates on clay, pyrophyllite, silt (soil), soapstone, talc and sand, in bags on pallets, between Kecler, Laws and Olancho, on the one hand, and points within the Los Angeles area, on the other hand. Said rates originally were published to meet the less than minimum rates authorized to Western Gillette, Inc., a highway common carrier, by Decision No. 75329, dated February 18, 1969 in Case No. 5432, Petition No. 527, which authority expired March 11, 1970.

Decision No. 76879, dated March 3, 1970, herein, granted Big Pine interim authority to continue to September 11, 1970, its published rates on the aforementioned commodities, pending further review following public hearing. On July 28, 1970, an amendment to the application was filed which seeks an ex parte extension of the authority to maintain the reduced rates for the period of one year.

Appended to the amendment is a listing of all shipments of the involved commodities transported by Big Pine since the interim authority herein was granted; a development of the costs per shipment of handling such commodities as return hauls; and a comparison of said costs with the related revenues per shipment. Said comparison indicates that revenues would exceed the associated incremental expenses of handling the freight.

The amendment alleges, as a basis for the request for ex parte handling, that the movements involved herein generate a minimum quantum of revenue and a public hearing would result in unnecessary expense to applicant. The application cites the location of applicant is in Big Pine, its accountant is located in Los Angeles and its attorney is in San Francisco. Any location selected for hearing assertedly would require extensive travel expense. The application states that adequate proof of the reasonableness of the rates is contained in the application as amended, in addition to previously established facts in earlier cases involving Western Gillette.

The application and amendment were served on interested parties, and notice of said filings appeared on the Commission's calendar. There are no protests. California Trucking Association, by letter dated August 3, 1970, advised the Commission that it has no objection to ex parte handling, provided that the authority is made to expire on July 1, 1971, in order to review the relief granted in light of any changed circumstances.

#### Discussion

The application indicates that Big Pine has an imbalance of freight in the northerly direction from Los Angeles. As a common carrier it must schedule sufficient trips to handle all freight tendered to it in the northbound direction. The Bishop-Lone Pine

area generates very little traffic, and any freight moving in a southbound direction which applicant receives will aid in balancing its load factor. The application also alleges that the shipper, Standard Industrial Materials, is not able to market its products at rates which would apply if the sought rates are not authorized; therefore, a major source of back-haul freight would be lost to applicant if the application is not granted.

Generally, the Commission has required, in proceedings in which highway carriers seek to deviate from minimum rates, that it be shown that revenues under proposed rates exceed the full round-trip costs of transporting the freight without regard to revenues on unrelated movements in the opposite direction. (Devine & Son Trucking Co., 67 Cal. PUC 441 and cases cited therein). This general requirement has been modified with respect to movements where: a common carrier is obligated to provide service to an economically underdeveloped area, said common carrier has an imbalance of freight from a metropolitan area to said underdeveloped area, the commodity available for back-haul moves only in the direction of the metropolitan area, and the commodity is such that it would not move by for-hire carrier if the proposed reduced level of rates is not established. (Peters Truck Line, 65 Cal. PUC 292 (1966), Southern California Freight Lines, et al, 50 Cal. PUC 445 (1951).

All of the circumstances in the foregoing exception to the Commission's general rule are met in this application. The proposed rates will exceed the incremental costs of handling the freight. Therefore, it appears, and the Commission finds that:

1. When the services for which reduced rates are sought herein are performed as a back-haul movement only with equipment used inbound in applicant's regularly scheduled common carrier service for general commodities, the proposed rates will be compensatory.

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2. In the absence of the authority requested herein the transportation of clay and related commodities will not be available to highway carriers.

3. The transportation of clay and related commodities proposed by applicant at rates less than the established minimum rates is in the public interest and is justified by transportation conditions (Section 452 of the Public Utilities Code).

In the circumstances, a public hearing is not necessary. The requested authority will be granted.

O R D E R

IT IS ORDERED that:

1. Big Pine Trucking Company, Inc., a corporation, is authorized to publish and file, to expire July 1, 1971, rates less than the established minimum rates, as more particularly set forth in Appendix A, and by this reference made a part hereof.

2. Tariff publications authorized to be made as a result of the order herein may be made effective not earlier than September 11, 1970, and on not less than three days' notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 25th day of AUGUST, 1970.

[Signature]  
Chairman

[Signature]

William J. [Signature]

[Signature]

[Signature]  
Commissioners

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Authorized Rates and Rules and Regulations  
Applicable Thereto

Application of Rates - Commodities

The rates herein set forth apply for the transportation of the following commodities when packed in bags and palletized:

Clay	Soapstone
Pyrophyllite	Talc
Silt (Soil)	Sand, including Silica Sand

Rates, in cents per 100 pounds

<u>From</u>	<u>To</u>	<u>Rate</u>	<u>Minimum Weight in Pounds Per Shipment</u>
Laws	Points within the Los Angeles	# 33-1/2	40,000
Keeler	Area as described below and	ø 35-1/2	40,000
Olancha	points intermediate thereto.		

# Applicable only when shipment is loaded into carrier's equipment by the consignor, and when shipment is unloaded without expense to carrier by consignee with power equipment, provided that the shipping document indicates that the shipment was loaded by consignor and is to be unloaded by consignee under conditions described in this reference. Consignee shall certify unloading in accordance with instructions.

ø Applicable only when shipment is loaded into carrier's equipment by the consignor, and when shipment is unloaded by consignee with the physical assistance of a single carrier employee (either driver or helper, subject to Note) by use of power equipment furnished by the consignee without expense to the carrier, provided the shipping document indicates that the shipment was loaded by consignor and is to be unloaded by consignee under circumstances outlined in this reference. Consignee shall certify unloading in accordance with instructions.

Note: The physical assistance to be provided by the single carrier employee shall be restricted to work within, on, or immediately adjacent to the carrier's equipment.

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Los Angeles Area: The Los Angeles Area, as so designated in connection with the rates set forth above, as set forth in Big Pine Trucking Company, Inc.'s certificate of public convenience and necessity.

Shipments transported subject to the rates herein specified shall not be accorded privileges of split pickup or of split delivery.

Charges for transportation under the rates herein specified shall be assessed on gross weight of the shipment. No allowance shall be made for the weight of the bags and/or pallets.